

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CASE NO. 05-11761-RCL

ROBERT DOWNER and
NANCY DOWNER,

Plaintiff,

v.

TOWN OF BURLINGTON, ROBERT
MERCIER, individually and in his capacity as
Town Manager, FRANCIS HART,
individually and in his capacity as Chief of
Police, and HARRY SAWYER,

Defendants.

DEFENDANTS' MOTION TO
DISMISS FIRST AMENDED
COMPLAINT

Now come the Defendants, Town of Burlington (hereinafter, "the Town"), Robert Mercier (hereinafter, "Mercier"), Francis Hart (hereinafter, "Hart"), and Harry Sawyer (hereinafter, "Sawyer"), collectively "the Defendants," and hereby move this Honorable Court to dismiss Robert and Nancy Downer's (hereinafter, "the Plaintiffs") First Amended Complaint in its entirety.

As grounds for this motion, the Defendants assert that the Plaintiffs' First Amended Complaint fails to state a claim for which relief may be granted, as more particularly set forth in the accompanying memorandum of law.

WHEREFORE, the Defendants move that the First Amended Complaint be dismissed in its entirety.

DEFENDANTS,
TOWN OF BURLINGTON, ROBERT
MERCIER, FRANCIS HART, and HARRY
SAWYER,
By their attorneys,

David C. Jenkins (BBO# 251000)
Brian M. Maser (BBO# 655667)
Kopelman and Paige, P.C.
101 Arch Street
12th Floor
Boston, MA 02110
(617) 556-0007

Date: June 15, 2006

284068/METG/0651